IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRL.MISC.NO.1282-M OF 2006

DATE OF DECISION: SEPTEMBER 15, 2006

Kashmir Singh Kang

....PETITITIONER

VERSUS

Jagdambay Steel Company ....RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. G.S.Sandhawalia, Advocate,
for the petitioner.
Mr.Rajiv Vij, Advocate,
for the respondent.

...

In this petition filed under Section 482 Cr.P.C., two fold-prayer has been made by the petitioner, who is the accused in a complaint filed under Section 138 of the Negotiable Instruments Act. Firstly, for quashing the complaint dated 3.8.2001 on the ground that the impugned cheques were issued as a security for payment and the said payment was already made. Secondly for setting aside the order dated 22.12.2005 passed by the JMIC, Jalandhar, whereby an application filed by the petitioner for summoning the complainant for further cross-examination, has been dismissed.

Reply filed by the respondent is taken on record.

Undisputedly before the trial Court, the complaint is at the fag end and the same is fixed for final arguments.

After arguing for some time, counsel for the petitioner states that as far as the first prayer of the petitioner is concerned, he does not want to press the same at this stage with liberty to raise all the contentions raised in this petition before the trial Court at the time of the arguments.

However, counsel for the petitioner presses the second prayer.

After hearing the counsel for the parties, I do not find any merit

in the second prayer made by the petitioner. While rejecting the application for further cross-examination of the complainant, the trial Court has observed as under:-

> "The applicant/accused has filed the present application for summoning the complainant Jagmohan Vij for further cross examination on the ground that his counsel has failed to cross examine the complainant Jagmohan Vij on some material facts which are not within the knowledge of his counsel as he was not present on the said date which are very much necessary and essential for the proper adjudication of the case. However, the application in hand is silent about the material questions left to be put on complainant Jagmohan Vij by his counsel while conducting the cross examination upon complainant Jagmohan Vij which were essential for proper adjudication of the case. The applicant/accused was required to disclose the material questions intends to be put to the complainant Jagmohan Vij in cross examination which could not be put in his cross examination by his counsel essential for just decision of the case. Moreover, no affidavit filed by the accused/applicant to support his averments. It appears that accused has filed the present application just to delay the proceedings. With these observations, the application in hand stands dismissed being devoid of any merits."

Counsel for the petitioner contends that further cross-examination of the complainant is necessary as some questions are to be put to him regarding the facts which came in the knowledge of the petitioner

subsequently. In my opinion, on such ground, the petitioner cannot be allowed at the fag end of the trial for further cross-examination of a witness, who has already been cross-examined at length. Thus, I do not find any merit in the second contention raised by the counsel for the petitioner. Accordingly, the petition is dismissed.

September 15, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE